



House of Representatives

General Assembly

File No. 323

February Session, 2008

Substitute House Bill No. 5814

House of Representatives, March 31, 2008

The Committee on Energy and Technology reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING COMMUNITY ACCESS TELEVISION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) Any third-party
2 nonprofit community access provider serving six municipalities, one of
3 which has a population of more than one hundred thirty thousand,
4 shall, upon request from any town organization, authority, body or
5 official within its service territory, provide written consent, pursuant
6 to its service provider agreements, for said town organization,
7 authority, body or official to (1) operate education and government
8 public access channels in that town, and (2) engage freely and directly
9 the community antenna television company providing services in that
10 town to use their headend equipment for dissemination of town-
11 specific public access programming on such channels. Said third-party
12 nonprofit community access provider must grant such written consent
13 to said requesting town organization, authority, body or official within
14 three business days. Written consent not provided within three

15 business days shall be deemed granted.

16 (b) If a third-party nonprofit provider fails to provide written
17 consent within three days, pursuant to subsection (a) of this section,
18 the Department of Public Utility and Control shall, upon a request
19 from a town organization, authority, body or official within the service
20 territory of that third-party nonprofit community access provider
21 serving six municipalities, one of which has a population of more than
22 one hundred thirty thousand, (1) terminate, revoke or rescind such
23 third party nonprofit provider's service agreement to provide public
24 access programming within one hundred eighty days, and (2) reopen
25 the application process to secure a community access provider for each
26 of the towns within the affected service territory.

27 Sec. 2. (NEW) (*Effective from passage*) (a) A community antenna
28 television company that provides services within a service territory of
29 a third-party nonprofit community access provider that serves six
30 municipalities, one of which has a population of more than one
31 hundred thirty thousand, shall direct the sum of one hundred
32 thousand dollars per year from the funds collected from subscribers in
33 said service territory that it provides to the existing third-party
34 nonprofit community access provider serving six municipalities, one of
35 which has a population of more than one hundred thirty thousand,
36 directly to the service territory's cable access advisory council for
37 developing town-specific education and government public access
38 programming.

39 (b) A cable access advisory council that receives funds pursuant to
40 subsection (a) of this section shall distribute said funds in their entirety
41 to a town organization, authority, body or official in the service
42 territory of a third-party nonprofit community access provider serving
43 six municipalities, one of which has a population of more than one
44 hundred thirty thousand, to support the development of production
45 and programming capabilities for town-specific education and
46 government public access programming, pursuant to grant procedures
47 and processes established by said council.

48 (c) Any cable access advisory council that receives funds pursuant
49 to subsection (a) of this section shall report annually to the Department
50 of Public Utility Control all completed or planned disbursements of
51 funds and certify that said funds were spent in their entirety and used
52 for the public good in the creation of town-specific education and
53 government public access programming for at least one of the towns in
54 its service territory.

55 Sec. 3. (NEW) (*Effective from passage*) (a) Local cable access advisory
56 councils shall mediate customer inquiries or complaints regarding
57 public access television within their service areas. Inquiries or
58 complaints may involve public access service, public access funding
59 allocation, access to production studios, quality of programming,
60 availability of town-specific programming and other public access
61 television issues.

62 (b) If any party is unsatisfied with such council's proposed
63 resolution of such inquiry or complaint, such party may bring the
64 party's issue to the Department of Public Utility Control. The
65 department shall adopt regulations in accordance with chapter 54 of
66 the general statutes to set forth the manner in which the department
67 shall handle such issues.

68 (c) Not later than January 1, 2009, each community access provider
69 shall notify residents in its service area regarding contact information
70 for the local cable access advisory council.

71 Sec. 4. Subsection (c) of section 16-333 of the general statutes is
72 repealed and the following is substituted in lieu thereof (*Effective from*
73 *passage*):

74 (c) The Department of Public Utility Control shall adopt regulations
75 in accordance with chapter 54 requiring each community antenna
76 television company to [maintain] provide to all of its subscribers at
77 least [one] the number of specially designated, noncommercial
78 community access [channel] channels that it provided or made
79 available to [the public] all of its subscribers in a given area as of

80 January 1, 2008, and establishing minimum standards for the
81 equipment supplied by such company for the community access
82 programming and requirements concerning the availability and
83 operation of such channel.

84 Sec. 5. Section 16-331d of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective from passage*):

86 (a) The chief elected official from the town in which a vacant seat
87 exists on a community antenna television advisory council shall
88 appoint a member to fill such vacancy if any other appointing
89 authority fails to make an appointment within six months of the time
90 in which a vacancy occurs.

91 (b) [No] Any member of a community antenna television advisory
92 council [appointed by the chief elected official of a municipality, the
93 board of education or the public libraries shall] may be an employee of
94 a community [antenna television company] access provider. For the
95 purposes of this subsection, an employee includes any person working
96 full or part time or performing any subcontracting or consulting
97 services for the [company] provider.

98 Sec. 6. Section 16-331t of the 2008 supplement to the general statutes
99 is repealed and the following is substituted in lieu thereof (*Effective*
100 *from passage*):

101 (a) A company issued a certificate of cable franchise authority shall,
102 twice a year, convene a meeting with the advisory council established
103 pursuant to its previous certificate of public convenience and necessity
104 issued pursuant to section 16-331 of the 2008 supplement to the general
105 statutes. Members shall be appointed in accordance with section 16-
106 331d. [No] A member of the advisory council [shall] may be an
107 employee of a [company providing community antenna television
108 service or video service] community access provider. For the purposes
109 of this subsection, an employee includes any person working full or
110 part time or performing any subcontracting or consulting services for a
111 company providing community antenna television service or video

112 service.

113 (b) A company issued a cable franchise authority certificate shall
114 provide funding to the advisory council in the amount of two
115 thousand dollars per year.

116 (c) Members of the advisory council shall serve without
117 compensation. For the purposes of this section, compensation shall
118 include the receipt of any free or discounted community antenna
119 television service or video service.

120 (d) The Department of Public Utility Control shall designate the
121 advisory council as an intervenor in any contested case proceeding
122 before the department involving the company it advises. Such
123 company shall provide to the chairperson of the advisory council a
124 copy of any report, notice or other document it files with the
125 department in any applicable proceeding.

126 (e) Any company issued a certificate of cable franchise authority
127 shall, every six months, provide on bills, bill inserts or letters to
128 subscribers, a notice indicating the name and address of the
129 chairperson of the advisory council and describing the responsibilities
130 of such advisory council. The advisory council shall have an
131 opportunity to review such notice prior to its distribution.

132 Sec. 7. Section 16-331h of the 2008 supplement to the general statutes
133 is repealed and the following is substituted in lieu thereof (*Effective*
134 *October 1, 2008*):

135 (a) Not later than one hundred twenty days after the certified
136 competitive video service provider begins offering service in a
137 designated area pursuant to its certificate of video franchise authority,
138 such provider shall provide capacity over its video service to allow
139 community access programming, in its basic service package, in
140 accordance with the following: (1) The certified competitive video
141 service provider shall provide capacity equal to the number of
142 community access channels currently offered by the incumbent

143 community antenna television company in the given area; (2) the
144 certified competitive video service provider shall provide funds for
145 community access operations, as provided in subsection (k) of section
146 16-331a of the 2008 supplement to the general statutes; (3) the certified
147 competitive video service provider shall provide the transmission of
148 community access programming [with connectivity up to the first two
149 hundred feet] from the competitive video service provider's activated
150 wireline video programming distribution facility located in the
151 provider's designated service area and shall not provide additional
152 requirements for the creation of any content; and (4) the community
153 access programming shall be submitted to the certified competitive
154 video service provider in a manner or form that is compatible with the
155 technology or protocol utilized by said competitive video service
156 provider to deliver video services over its particular network, and is
157 capable of being accepted and transmitted by the provider. [, without
158 requirement for additional alteration or change in the content by the
159 provider.]

160 (b) A certified competitive video service provider and a community
161 antenna television company or nonprofit organization providing
162 community access operations shall engage in good faith negotiation
163 regarding interconnection of community access operations where such
164 interconnection is technically feasible or necessary. Interconnection
165 may be accomplished by direct cable, microwave link, satellite or other
166 reasonable method of connection. At the request of a competitive video
167 service provider, community antenna television company or provider
168 of community access operations, the Department of Public Utility
169 Control may facilitate the negotiation for such interconnection.

170 (c) Not later than one hundred twenty days after the certified
171 competitive video service provider begins offering service in a
172 designated area pursuant to its certificate of video franchise authority,
173 such provider shall provide transmission of the Connecticut Television
174 Network to all its subscribers, including real-time transmission as
175 technically feasible, under the same conditions as set forth in
176 subdivisions (3) and (4) of subsection (a) of this section.

177 (d) [The] On or before April 1, 2009, the Department of Public
178 Utility Control shall initiate a contested case proceeding to evaluate the
179 video and audio quality, and length of time necessary to access and
180 view public access programming and content that certified competitive
181 video service providers and holders of a certificate of cable franchise
182 authority provide to their subscribers. The department shall report its
183 findings to the joint standing committee of the General Assembly
184 having cognizance of matters relating to energy on or before January 1,
185 2010.

186 Sec. 8. (NEW) (*Effective from passage*) Notwithstanding any order of
187 the Department of Public Utility Control, no community antenna
188 television company or its affiliate shall qualify, be certified, or provide
189 service as a competitive video service provider in any area or
190 municipality where it or an affiliate was providing service as a
191 community antenna television company pursuant to section 16-331 of
192 the 2008 supplement to the general statutes, on or before October 1,
193 2007, unless it (1) on or before January 1, 2009, files with the
194 Department of Public Utility Control a statement of intention to
195 provide video service in an area in which it did not provide video
196 service as a community antenna television company, pursuant to
197 section 16-331 of the 2008 supplement to the general statutes, on or
198 before October 1, 2007, and (2) on or before January 1, 2010, initiates
199 construction or acquires access to wireline assets necessary to create
200 the infrastructure to provide video service in an area in which it did
201 not provide video service as a community antenna television company,
202 pursuant to section 16-331 of the 2008 supplement to the general
203 statutes, on or before October 1, 2007.

204 Sec. 9. (NEW) (*Effective from passage*) Any community antenna
205 television company or nonprofit organization providing community
206 access operations that supplied original programming from locally run
207 operations and provided funding to town-specific programming shall
208 continue to fund town-specific programming in such proportions to
209 funding for original programming from locally run operations as of
210 January 1, 2008.

211 Sec. 10. Section 16-331s of the 2008 supplement to the general
 212 statutes is repealed and the following is substituted in lieu thereof
 213 (*Effective from passage*):

214 (a) A company issued a certificate of cable franchise authority shall
 215 be subject to the community access programming and operations
 216 provisions set forth in subsections (b) to [(i), inclusive, and subsections
 217 (k)] (l), inclusive, and (n) of section 16-331a of the 2008 supplement to
 218 the general statutes, and any regulations pursuant thereto, and
 219 subsection (c) of section 16-333, as amended by this act, and any
 220 regulations pursuant thereto.

221 (b) A company issued a cable franchise authority certificate shall
 222 provide transmission of the Connecticut Television Network to all its
 223 subscribers, including real-time transmission as technically feasible.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	16-333(c)
Sec. 5	<i>from passage</i>	16-331d
Sec. 6	<i>from passage</i>	16-331t
Sec. 7	<i>October 1, 2008</i>	16-331h
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	16-331s

ET Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Bridgeport	See Below	See Below	See Below

Explanation

This bill requires a cable TV company that provides services to an area that contains six municipalities in its service area and has a population of more than 130,000 residents to provide funds directly to the towns in the area rather than a non-profit organization to develop town-specific education and government public access programming. Currently, the only area that contains these provisions is the greater Bridgeport area. This bill will allow \$100,000 annually, from funds collected from the subscribers in the greater Bridgeport area, to be paid directly to the town for the purpose of developing community access television.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5814*****AN ACT CONCERNING COMMUNITY ACCESS TELEVISION.*****SUMMARY:**

This bill amends several provisions of PA 07-253, which partially deregulated the cable TV industry, primarily regarding community access television. Community access television includes public, educational, and governmental programming. Among other things, the bill imposes additional obligations on companies that have recently entered the video services market and on certain cable TV companies.

The bill imposes several responsibilities on the cable TV company that serves the Bridgeport area and the nonprofit organization that administers community access programming there with regard to such programming. The bill requires the cable TV company serving this area to provide funding to the towns in the area for town-specific educational and governmental access programming. But it appears that this provision has no legal effect (see COMMENT).

Under current law, the Department of Public Utility Control (DPUC) must adopt regulations requiring cable TV companies to maintain at least one specially designated, noncommercial community access channel. The bill requires DPUC to amend the regulations to require the cable TV companies to provide all of their subscribers the number of access channels that they provided or made available to their subscribers as of January 1, 2008.

The bill requires any cable TV company or nonprofit organization that provides community access operations that supplied original programming from locally run operations and provided funding to town-specific programming to continue to fund town-specific

programming. Any such cable TV company or nonprofit organization must fund the programming in proportion to the funding for the original programming from locally run operations as of January 1, 2008.

Current law prohibits cable TV company employees from serving as the members of local cable TV advisory councils who are appointed by municipal chief elected officials, school boards, and libraries. It also prohibits these employees and employees of video services providers (companies such as AT&T) from serving the new councils established when a cable TV company receives a certificate of cable franchise authority under PA 07-253. The bill eliminates these prohibitions and allows employees of community access providers to serve on these councils.

EFFECTIVE DATE: Upon passage, except for the provision on video services providers, which is effective October 1, 2008.

CHANGES TO PA 07-253

PA 07-253 requires companies that provide video programming but are not cable TV companies to be certified by DPUC. It subjects these “providers” to some of the requirements that apply to cable TV companies, including several regarding community access. But the providers are not required to provide community access studios, as cable TV companies are. Nor are providers subject to other requirements that apply to cable companies, including obtaining a franchise for a specified number of years and being subject to rate regulation.

Expansion of Providers’ Responsibilities

The bill expands the providers’ community access programming responsibilities. It requires providers to transmit community access programming anywhere in their service areas, rather than just within 200 feet of the provider’s wire line network. The bill also eliminates a provision requiring that community access programming be submitted to the provider in way that allows it to use its network to transmit the

programming without having to alter or change its content. (One provider, AT&T, uses a technology that is different from traditional cable, requiring a reconfiguration of the programming.)

Cable TV Companies

PA 07-253 also allows a cable TV company to apply for the same treatment as the providers if it serves areas outside of its existing franchise territory. (One franchise holder, which has two affiliates in the state, applied for a statewide certificate as a provider under this provision. DPUC issued an order granting the certificate for all of the state, except the applicant's franchise area. In effect, this company is subject to regulation as a provider, even in the areas where its affiliates had previously operated as cable TV companies.)

The bill requires cable TV companies to expand their service areas in order to qualify for the same treatment as providers. The bill specifies that, notwithstanding any DPUC order, no cable TV company or its affiliate may qualify, be certified, or provide service as a provider in any area or municipality where it or its affiliate was providing service as a cable TV company on or before October 1, 2007, unless it (1) files a statement of intention with DPUC by January 1, 2009 to provide video service in an area in which it did not provide service as a cable TV company on or before October 1, 2007 under prior law and (2) by January 1, 2010, begins construction or acquires access to wire line assets needed to create the infrastructure to provide video service in an area where it did not provide video service as a cable TV company on or before October 1, 2007.

DPUC Proceeding

PA 07-253 required DPUC to conduct a contested case on various public access issues as they apply to providers and cable TV companies. The bill requires that DPUC begin this proceeding by April 1, 2009. By law, DPUC must report its findings to the Energy and Technology Committee by January 1, 2010.

BRIDGEPORT AREA FRANCHISE

By law, a nonprofit organization can petition DPUC to assume responsibility for administering community access programming in a franchise area when a cable TV company seeks to renew its franchise. The bill requires a specific nonprofit to consent, under its service provider agreement, to allow a town organization, authority, body, or official in its service area to (1) operate educational and governmental public access channels in the town and (2) engage freely and directly with the cable TV company serving the town to use the company's head-end (transmitting) equipment to disseminate town-specific programming on these channels. The nonprofit must provide this consent in writing within three business days of a written request from the town organization, authority, body, or official. If it does not, DPUC must, upon request of any of these entities or officials, (1) terminate, revoke, or rescind the agreement within 180 days and (2) reopen the application process to secure an access provider for each of the towns in the service territory.

These provisions apply to the nonprofit serving a franchise that meets specified criteria (one with six municipalities, one of which has more than 130,000 residents, i.e., the Bridgeport area franchise)

COMPLAINTS REGARDING PUBLIC ACCESS

The bill requires local cable access advisory boards to mediate customer inquiries or complaints regarding public access television within their service areas. The inquiries or complaints may involve public access service or funding allocations, access to production studios, quality of programming, the availability of town-specific programming, and other public access television issues.

If a party is unsatisfied with the board's proposed resolution of the inquiry or complaint, the party may bring his or her issue to the DPUC. DPUC must adopt regulations establishing how it will handle such issues.

By January 1, 2009, each community access provider must notify residents in its service area regarding contact information for the local

cable access advisory board.

PA 07-253 allows cable TV companies to obtain a “certificate of cable franchise authority” once a provider enters its franchise territory. The cable TV company then becomes subject to a form of regulation that is similar to the one that applies to providers. The bill requires the local advisory council of such cable TV companies to review all community access programming that has been the subject of a complaint.

COMMENT

Apparently Ineffective Provisions for Funding Town-Specific Programming

The bill requires the “community antenna television company” (the statutory term for a cable TV company) that serves a specific franchise area to provide funding to the access advisory council in the area. The council must distribute the money for town-specific educational and governmental access programming. The council must also file an annual report with DPUC on the use of the funds. The franchise area is one with six towns, one of which has a population of more than 130,000. The Bridgeport area is the only one that meets the latter criterion. However, this area is served by a company that holds a “certificate of video franchise authority” and thus, under CGS § 16-1, is not a “community antenna television company.”

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 22 Nay 0 (03/11/2008)